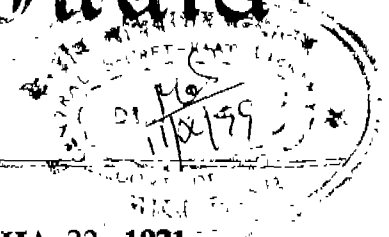




भारत का राजपत्र The Gazette of India

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नं. 22]

नई दिल्ली, शनिवार, जून 12, 1999/ज्येष्ठ 22, 1921

No. 22]

NEW DELHI, SATURDAY, JUNE 12, 1999/JYAISTHA 22, 1921

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (III)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union
Territories)

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

नई दिल्ली, 12 मई, 1999

New Delhi, the 12th May, 1999

आ. अ. 123:—निर्वाचन आयोग 1998 की निर्वाचन
अर्जी सं. 4 और 5 में दोनों तारीख 3.4.98 को
कर्नाटक राज्य के उच्च न्यायालय में आदेश और
और औपचारिक आदेश लोक प्रतिनिधित्व अधिनियम,
1951 (1951 का 43) की धारा 106 के अनुसरण
में एतद्वारा प्रकाशित करना है ।

O.N. 123.—In pursuance of Section 106 of the Repre-
sentation of the people Act, 1951 (43 of 1951), the Election
Commission hereby publishes the order and formal order
and of the High Court of Karnataka State both dated
03-04-98 in Election petition No. 4 & 5 of 1998.

IN THE HIGH COURT OF KARNATAKA AT
BANGALORE

DATED THIS THE 3RD DAY OF NOVEMBER 1998
BEFORE :

(आदेश और औपचारिक आदेश अधिसूचना के अंग्रेजी
भाग में छपा है ।)

THE HON'BLE MR. JUSTICE M. F. SALDANHA
ELECTION PETITION NOS. 4 & 5 OF 1998

[सं. 82/कर्ना.-लो.स./4 और 5/98/99]

BETWEEN :

आदेश से,
बाबू राम, सचिव

1. G. Mallikarjuna,
S/o Late Eshwarappa,
Aduli, R/o H. No. 18,
TUFFAILU VILLAGE,
Chitradurga Taluk,
Chitradurga District.

2. G. M. Siddeshwarappa,
S/o Sri G. Mallikarjunappa,
Adult, R/o H. No. 18,
TUREBAILU VILLAGE,
Chitradurga Taluk,
Chitradurga District.

PETITIONERS

(By Sri N. G. Phadke, Advocate.)

AND :

1. Sri. Shanmur Shivashankarappa,
Adult, S/o late Kalappa,
House No. 2633/1, "Bakkesh",
M.C.C. 'B' Block,
DAVANGERE-577004.
2. Sri S. H. Patel, Adult,
S/o late Halappa,
H. No. C. 11, Bapuji Vidyanagar,
DAVANGERE-577005.
3. Sri Ningappa S. Adult,
S/o K. Siddalingappa,
C/o Y. M. Veeranna,
Ex-MLA MCC 'B' Block,
DAVANGERE.
4. Sri Bhopala Naik, Adult,
Father's name not known to the petitioner,
Bldrehalli, Chinnikatto P.O.,
Honnali Taluk, Shimoga Dist.
5. Yogishrao Shinde, Adult,
S/o Ramachandra Rao Sindhe,
Door No. 329/1,
Siddamangalli,
Shivajinagar,
DAVANGERE.
6. Sri S. Sharanappa, Adult,
S/o G. Shivalingappa,
Bhimasamudra-577520,
Chitradurga Taluk,
Chitradurga District.
7. Sri Srinivasa, Adult,
S/o Arunchalam Pillay,
No. 51, Neelamma Thota,
DAVANGERE-577003.

Respondents

(By Sri R. Krishnamurthi, Sr. Adv.—for Sri Basava
Prabhu Patil—for R-1).

(By Sri M. B. Narapund—for R-5)

(By Sri C. Shashikanth—for R-6).

Election Petitions filed u/s. 81, 84, 100(1)(b) & (3) 10(b) & 123(2), (3) & (8) of the Representation of the People Act, 1950 by petitioners—candidate and elector at 1988 General Elections to the House of Parliament from the 6th Davanagere Parliamentary Constituency held on 2-3-98 through his Counsel Sri N. G. Phadke, Adv. praying that this Hon'ble Court be pleased to (i) for a declaration that the election of the 1st respondent as the returned candidate from the 6th Davanagere Parliamentary Constituency to the 12th House of the People at the elections held on 22nd February 1998, the result of which has been declared on 2nd March 1998 as per Annexures G & H Form 21C and Form No. 21E, be declared void under the provisions of Ss. 100(1)(b) R/w Ss. 123(2)(3) & (8) and 98 of the Representation of the People Act 1961 and (ii) for a declaration that the 1st petitioner has been duly elected and returned to the 12th House of the People under the provision of S. 101(b) R/w S. 98 of the Representation of the People Act, 1951.

These Election Petitions coming on for orders this day the Court made the following:—

ORDER

A very unusual situation has arisen in this litigation in so far as the first respondent who is the elected candidate, through his learned Counsel, has submitted an application to

the Court for dismissal of these petitions on the ground of procedural non-compliance. I shall briefly enumerate in the course of this order what the various heads of charge are but I need to prefix the judgment with the observation that Election Law unlike in almost all other fields of litigation presents a situation wherein the rule of strict compliance is not only observed but scrupulously insisted upon by the Courts. There are many reasons for this, the main one being that the outcome of these petitions must necessarily be time bound because where an election has been challenged, if the challenge is a valid one the wrongly elected candidate should be dislodged from Office at the earliest point of time whereas on the other hand, if the challenge is unfounded then the cloud that hangs over the elected candidate must necessarily be cleared without any undue delay. Experience has shown that one of the main reasons for any form of litigation taking not only years but decades is because of procedural non-compliance and the corrective processes that plod on virtually for years together. I also take cognisance of the fact that the Courts have come across a class of cases where the challenge is far from valid or substantial and the protracted litigation can have its own hazardous effect vis-a-vis the elected candidates. For all these reasons, the Supreme Court and the High Courts have, with a degree of locus standi and consistency insisted upon absolutely strict compliance with the requirements of law. The Representation of the Peoples Act itself by virtue of the provisions contained in Section 86 make it mandatory for the High Court to dismiss a petition which does not comply with the provisions of Section 81 or 82 or Section 117 of the Act. Undoubtedly, it may appear to be rather harsh because a dismissal on the ground of procedural non-compliance is construed by virtue of Section 86 as a dismissal on merits and in this view of the matter, an argument is sometimes advanced that strict adherence to the requirements may have a very far reaching consequences. It is for good reason that the Legislature has incorporated special provisions in this Act and I have enumerated the reasons for them and it is for the same reason that the Courts have also interpreted the provisions in keeping with the legislative intent. This Court had occasion to deal with one such situation in Election Petition No. 2 of 1995 and by judgment and order dated 19th July 1996 I had occasion to examine the case law on the point virtually threadbare and to uphold the view that if procedural non-compliance is demonstrated, that the Court has no option except to dismiss the petition. That view represents the crystallised thinking of the Courts over the years.

2. An application I.A. I has been presented by the first respondent wherein dismissal of the petitions has been prayed for on several grounds. The first of them is that Rule 1964 requires that the requisite affirming Affidavit in the prescribed form must be appended to the petition. The applicant's learned Counsel pointed out to me from page 102 of the petition that the affirming Affidavit is not in keeping with form No. 25. He sought to elaborate his submission by pointing out that in a petition of the present type particularly where the contention is that the R-1 has indulged in various corrupt practices, that the factual aspect of each of the incidents is of paramount consequence because each of these are virtually in the nature of a separate charge. The corrupt practice is something very serious and Courts would normally not take cognisance of something that is hearsay, something that is generalised or something that is remote but if the incidents have been set out, it is equally necessary for the party making the allegations to very clearly indicate to the Court as to whether each of these is on the basis of one's personal knowledge or on the basis of information which one believes to be true. There is a prescribed requirement in form No. 25 and the submission is that unless a party swearing the Affidavit makes it very clear with regard to each paragraph or each incident as to whether that party has personal knowledge or whether it is on the basis of information that it would be impossible to either attach credibility to the statement but more importantly to fasten the liability on a particular member individual, I see considerable substance in this argument because it is not a mere formality but it is a requirement of law because these are serious proceedings and they are not to be equated with general roving enquiries. If an election is to be set aside, it has got to be on the basis of specific evidence placed before the Court in the form of a petition and substantiated thereafter and therefore, even for purposes of taking cognisance of the petition and proceeding,

the Courts insist that there has got to be sufficiently reliable material before the Court even at that point of time when the petition is presented. Factually, it is true that the affirming Affidavit is not in compliance with form No. 25 in this case.

3. I need to however point out that the petitioners' learned Counsel Mr. Phadke was quick to bring it to my notice that Order 6 Rule 15 CPC prescribes the manner in which pleadings are required to be verified and it is generally provided that the affirmation is required to be done before a designated authority and secondly, that it is necessary to generally indicate as to whether the material is on the basis of one's own knowledge or on the basis of information. Mr. Phadke is right when he points out that the general provision of law as enunciated in the CPC governs pleadings but what one needs to take cognisance of is that if there is a special enactment which makes provision for a procedure that is different, that the latter will prevail in proceedings under that enactment. It is in this background, that it becomes necessary for the Court to uphold the view that the form as prescribed in the Representation of Peoples Act will have to have an overriding effect and that one cannot go back to the CPC for this purpose. This is an Election Petition and the Court cannot ignore that fact and cannot at the same time give a go by to what is prescribed in the Act and the Rules framed thereunder.

4. The second contention raised on behalf of the applicant is that Section 117 of the Act requires certain payments to be made as and by way of security costs and the Act prescribes that the payment is required to be made at the time when the petition is filed. The Applicants learned Counsel relied on Rule 22 of the Election Procedure Rules framed by the High Court in support of his contention that the tender of this amount is required to be made at the time when the petition is presented. He reinforces his argument by pointing out that it is the sad experience of the Courts in numerous cases that the requisite payments are not tendered when petitions or appeals are filed and that there are all sorts of protracted proceedings and disputes with regard to the quantum of liability etc., which keep the cases dragging on for decades and that the aforesaid provisions were enunciated in order to totally eliminate any such possibility. He contended that these cases are not to be time bound and that the consequently, special provisions have been incorporated requiring the payments to be made at the time when the Election Petition is filed. What is demonstrated is that the amount was deposited on 6-4-98 and that the petition was filed on 15-4-98. The submission was that in so far as the documents produced by the petitioners themselves indicate that the amount was tendered on 6-4-98, a Certificate was issued on 7-4-98 and that these formalities were not complied with on 15-4-98 i.e. the date on which the petition was filed which constitutes breach of the provisions of Section 117.

5. Mr. Phadke has strongly refuted this argument and he submitted that he himself accepts the position that these provisions have been incorporated in order to avoid delay. He pointed out to me that a party can be said to be in default if the party occasions any delay namely by tendering the requisite payments not at the time when the petition is filed but the next date or at any later point of time but he submitted that it is unthinkable for a party to be penalised if the payments have been tendered before that date. I am in total agreement with the submission canvassed by the learned Counsel because a petitioner can be faulted if the act of the petitioner has occasioned what Section has trying to prohibit but in a case where the payment is tendered earlier to that date, it would be an absurdity to contend that it would constitute any breach of Section 117 or that the party is in default. To my mind, this ground of challenge is totally devoid of any substance.

6. These are unusual petitions because we have before the Court two Election Petition Nos. 4 and 5 of 1998 cited in the cause title and two sets of Court fees etc., have been paid and they are therefore two petitions or rather twin petitions because they are two petitions dependent on one set of pleadings. Petitioners' learned Counsel pointed out that the petition had originally been tendered as a joint petition and that the Office raised some procedural objection which was why, out of abundant caution and because of the objection raised by the Office of the High Court, two sets of payments

were tendered and the original joint petition has been bifurcated into two separate petitions.

7. In the first instance, the applicants learned Counsel has made capital out of the fact that the person shown as petitioner-2 G.M. Siddeshwarappa according to him, has no locus standi to present the petition because this person was only the Election Agent of the candidate. Learned Counsel contended that either a candidate or an elector i.e. the voter of that constituency is competent to present a petition and he submitted that Siddeshwarappa is neither of the two and that consequently, his petition will have to be dismissed. In response to this submission, Mr. Phadke stated that the learned Counsel is wrongly relying on the concluding statements in paragraph-3 of the petition without taking note of the averments contained earlier and he relies on the following sentence—"A true copy of the voters list extract showing both the petitioners as voters/electors of the Davanagere is produced herewith and marked as Annexure-E". The learned Counsel relied on the copy of the extract at page-31 and 32 of the petition which shows the two different names at serial Nos. 65 and 67. His submission is that this completely answers the charge with regard to locus standi and that therefore, there is absolutely no substance in the objection that has been pleaded. Had the matter rested there, I would have left it as it is. Unfortunately, the pleadings themselves contain certain other documents particularly the one whereby the candidate had appointed an agent and these documents indicate the name of the person as G.M. Siddeshwarappa. There is a minor variation in the name and Mr. Phadke was quick to point out that it is one and the same person and his contention was that the prefix of the word "appa" is part and parcel of the same name and that it does not make any difference to the identity. The applicants learned Counsel did not accept this position because he insists that there is a serious discrepancy as far as this aspect of the case goes because he points out to me from the letter written to the Returning Officer by the Agent which is signed as "Siddeshwar". The contention raised though technical, proceeds on the footing that there is a discrepancy as far as the identity of this person is concerned and that consequently, in the absence of any cogent reconciliation in the pleadings, this discrepancy is fatal as far as this petition goes. I have carefully scrutinised the petition and I do find that the averments are wanting as far as this aspect of the case is concerned. I do not dispute that the learned Counsel sought to bridge the gap or reconcile the position in the course of his arguments but the fact of the matter is that the Court is required to go by the pleadings and not by explanations that may come in at a later point of time. There is a crisis of identity in so far as it is not conclusive from the petition that the Agent and the voter are one and the same individual, though the names are some what common, in situations where a discrepancy of this type arises, it is very necessary that the pleadings must be very clear and cogent and that they must, if there are any problematic situations present reconcile the position to the satisfaction of the Court in the pleadings. In the absence of that, there is scope for ambiguity and for disputes but the end result is that it would mean that there is a serious lacuna which the Court cannot overlook.

8. I have already indicated that as the record stands, the Court is presented with an absolutely exceptional situation in this case because, irrespective of the reasons why it happened, we have two Election Petitions effectively presented by two separate persons bearing separate numbers but both dependant on one set of pleadings which is what I need to take special note of. The inevitable result of the discrepancy that has arisen with regard to the identity of G. M. Siddeshwarappa would leave the Court with no option except to hold that on this ground coupled with the earlier finding, that his petition would have to be dismissed. The question that arises therefore is as to whether the Election Petition No. 4 of 1998 could survive in the light of the dismissal of the joint petition.

9. There is considerable amount of debate with regard to the question of maintainability of joint petitions. Mr. Phadke did draw my attention to Sections 110 and 112 of the Representation of Peoples Act and to the following decisions:— (1) I.L.R. 1978 KAR 1479, (2) A.I.R. 1985 Allahabad 118, (3) A.I.R. 1967 Allahabad 150, (4) A.I.R. 1957 A.P. 1007

and (5) 1980 (1) Kar. J.J. Short Notes 22. The last of these decisions deals with the point as to whether individual affirmation is necessary in the case of a joint petition and has virtually answered the question in the negative. In sum and substance, what the learned Counsel submitted was that the law makes provision for joint petitions wherein there can be more than one petitioner and he thereafter submitted that if one looks at the provisions of Sections 110 and 112 of the Representation of Peoples Act that the law itself contemplates situations wherein a petitioner may die or a petitioner may want to withdraw a petition and the question arises as to what happens vis-a-vis the remaining co-petitioners. I do not dispute the fact that joint petitions are maintainable within the scheme of the law and the learned Counsel is equally right when he points out to the Court that there are situations in which a petition would survive even if one of the co-petitioners dies and there is also provision for substitution of any other person in place of such a petitioner. Those were all cases where the term joint petition was construed as being a petition in which the Court had a single proceeding before it with two or more petitioners. This is not such a case because we have in the first instance two separate distinct petitions with two separate distinct petitioners, both the petitions dependent wholly and completely on the same set of pleadings. Even the affirmations have been shown all through jointly. The question that has been posed therefore is as to whether even if one of the petitions is dismissed, the other one could survive on its own strength. In my considered view, where there are two petitioners there is absolutely no difficulty but in the present case, I can only equate the present petitions to a situation that is described in Medical Science as siamese twins. The reason for this is only because the two petitions are inextricably linked together in so far as both of them depend entirely and totally on the same set of pleadings and if one of the petitions is dismissed under Section 86, it would be impossible for the second one to survive. This is the consequence by operation of law and though I do concede that it may seem unfortunate, despite having given my anxious thought to the modalities I find that the Court is left with virtually no other option.

10. The applicants learned Counsel drew my attention to two decisions reported in A.I.R. 1983 Supreme Court 558 and 1991 (3) S.C.C. 375. In both of these cases, the Supreme Court had occasion to enumerate the consequences of any form of procedural non-compliance or breach. The Court has, in keeping with the consistent view of that Court held that the breach is fatal. This being the position, the inevitable consequence of the dismissal of the second petition would be that the first one would also not survive.

11. One more objection canvassed by the applicants learned Counsel was that the number of copies in the manner in which they are required to be filed had not been tendered and that this constitutes a breach of the provisions of Section 81(3). It is true that on 24th July, 1998 a memo was filed taking some corrective action whereby an additional copy in the prescribed form was tendered to the Office. The submission canvassed was that this constitutes a breach of the provision in so far as it is mandatory for the petitioner to provide requisite copies duly affirmed etc., in the form in which they are required to be tendered and that departure from this requirement would result in inevitable delay and that it is therefore fatal to the petitioner. This is a case in which several copies of the petition were required and Mr. Phadke points out to me that it came to his notice that the copy which had to go to R-1 had gone to R-5 and that for this purpose, he tendered an additional copy. The applicants learned Counsel submitted that since there are two petitions 22 copies should have been submitted and not 11 and that consequently, this constitutes a substantial breach. As far as this objection is concerned, even though if one were to look at the law it may be construed as breach, I am not inclined to uphold the objection because the Court cannot overlook the fact that the parties were the same and the spirit behind Section 83 is to ensure that all the opposite parties are served with the copies of the petition. Undoubtedly, there are two petitions on record but having regard to the fact that the respondents were common, in my considered view there is substantial compliance and I therefore overrule this particular objection.

12. Having regard to the aforesaid findings, the I.A.I. succeeds to the extent only as indicated in this judgment. Both the Election Petitions stand dismissed. In the circumstances of the case, there shall be no order as to costs.

Sd./- Illegible,

Deputy Registrar,

High Court of Karnataka, Bangalore

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Election Petition Nos. 4 and 5 of 1998

BETWEEN

1. G. Mallikarjunappa,
S/o late Eshwarappa,
R/o H. No. 18,
Turebailu Village,
Chitradurga Taluk,
Chitradurga District.

2. G. M. Siddeshwarappa,
S/o Sri G. Mallikarjunappa,
R/o H. No. 18,
Turebailu Village,
Chitradurga Taluk,
Chitradurga District.
(By Sri N. G. Phadke, Advocate.)

... Petitioners.

AND

1. Sri Shamanur Shivashankarappa,
S/o late Kalappa H. No. 2633/1,
"Bakkesh", M.C.C. 'B' Block,
Davanagere-577004.

2. Sri S. H. Patel,
S/o late Halappa,
H. No. C.11, Bapuji Vidyanagar,
Davanagere-577005.

3. Sri Niugappa S.,
S/o K. Siddalingappa,
C/o Y. M. Veeranna,
Ex-MLA, MCC 'B' Block,
Davanagere.

4. Sri Bhopala Naik,
Father's name not known to the petitioner.
Biderehalli, Chinnikatte P.O.,
Honnali Taluk,
Shimoga District.

5. Yogishrao Shinde,
S/o Ramachandra Rao Sindhe,
Door No. 329/1, Siddammangalli,
Shivajinagar,
Davanagere.

6. Sri S. Sharunappa,
S/o G. Shivalingappa,
Bhimasamudra-577520,
Chitradurga Taluk,
Chitradurga District.

7. Sri Srinivasa,
S/o Arunachalam Pillay,
No. 51, Neelamma Thota,
Davanagere-577003.

... Respondents.

DECREE IN ELECTION PETITIONS

These two Election Petitions are filed under Sections 81, 84, 100(1)(b) and (d), 101(b) and 123(2), (3) and (8) of the Representation of the People Act, 1951, by the petitioners—1st Petitioner being a candidate and the 2nd petitioner being his agent in 1998 General Election to the House of Parliament from the 6th Davanagere Parliamentary Constituency held on 2-3-1998, praying the Hon'ble Court,

(i) for a declaration that the election of the 1st Respondent as the returned candidate from the 6th

Davanagere Parliamentary Constituency to the 12th House of the People at the elections held on 22-2-1998, the result of which has been declared on 2-3-1998 as per Annexures: G and H Form 21C and Form No. 21E, be declared void under the provisions of Ss. 100(1) (b) R/w. Ss. 123(2)(3) and (8) and 98 of the Representation of the People Act, 1951; and

- (ii) for a declaration that the 1st petitioner has been duly elected and returned to the 12th House of the People under the provisions of Section 101(b) R/w. Section 98 of the Representation of the People Act, 1951.

This Election Petition coming in between 6-10-98 and 2-11-98 for orders on I.A.I. filed by Respondent No. 1 under Order VII, Rule 11, R/w Section 151 of C.P.C. for dismissing the Election Petitions in-limine, The Hon'ble Court by dictating the judgment in the open Court on 3-11-98 in presence of Sri N. G. Phadke and Sri R. Krishnamurthy, Sr. Advocate for Sri Basavaprabhu Patil for Respondent No. 1 and Sri M. B. Naragund, Advocate for R. 5 and Sri C. Shashikanta, Advocate for R. 6, allowed I.A.I. to the extent mentioned in the order and consequently it is ordered and decreed that both the Election Petitions be and the same are hereby dismissed.

And it is further ordered and decreed that there shall be no order as to costs.

[No. 82/KT-HP/4 & 5/98/99]

By Order,

BABU RAM, Secy.

नई दिल्ली, 12 मई, 1999

आ. अ. 124:—निर्वाचन आयोग 1998 की निर्वाचन अर्जी सं. 3 में तारीख 12.11.1998 में कर्नाटक राज्य के उच्च न्यायालय का आदेश और औपचारिक आदेश एतद्वारा लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में प्रकाशित करता है।

(आदेश और औपचारिक आदेश अधिसूचना के अंग्रेजी भाग में छपा है।)

[सं. 82/कर्ना.-लो.स./3/98/99]

आदेश से,

बाबू राम, सचिव

New Delhi, the 12th May, 1999

O.N. 124.—In pursuance of Section 106 of the Representation of the people Act, 1951 (43 of 1951), the Election Commission hereby publishes the order and formal order of the High Court of Karnataka State dated 12-11-1998 in Election Petition No. 3 of 1998.

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE

Dated this the 12th day of November, 1998

BEFORE

THE HON'BLE MR. JUSTICE A. J. SADASHIVA
ELECTION PETITION NO. 3/1998

BETWEEN

Ghaste Dilip Dattu,
S/o Ghaste Dattu Jana,

Age : 32 years,
Occ. : Social Worker,
R/o : Jugul,
Tq. : Athani,
Distt. : Belgaum

— Petitioner

[By Sri F. S. Dabali, adv. for petitioner]

AND

1. Jigajinagi Ramesh Chandappa,

S/o Chandappa,

Age : Major,

R/o : Atharga,

Tq. : Indi,

Distt. : Bijapur.

2. Sri G. Kumar Naik,

Chief Executive Officer,

Zilla Panchayat, Belgaum,

and Returning Officer,

No. 26, Chikkodi Parliamentary

Constituency,

Belgaum District,

Belgaum.

3. The Chief Election Commissioner,

Nirvachan Bhavan,

New Delhi.

— Respondent

[Respondent No. 3 deleted vide Court Order dated 1-9-1998]

[By Sri V. Viswanath & Smt. Radha, Advocates
Advocates for Respondent No. 1,

Sri M. N. Ramanjaneya Gowda, HCGA for R2]

This Memorandum of Election Petition is filed under Section 81 of the Representation of Peoples Act, 1951, praying to declare the declaration of result of respondent No. 1, from No. 26, Chikkodi (SC) Parliamentary Constituency as null and void; to declare that the respondent no. 1 has committed practice under Sections 123(1), 123(7) and 123(8) read with Sections 100(1)(b) and 100(1)(c), 100(1)(d)(ii) of R. P. Act, declare the result of the election of respondent no. 1 as having been materially affected under Section 100(1)(d)(iii) and (iv) of the Representation of People Act; to name respondent no. 1 as having committed corrupt practice under Section 98 of the Representation of Peoples Act and such other person who have committed the corrupt practice; and to declare that the rejection of nomination papers of the petitioner by the 2nd respondent is improper under section 100(1)(c) of the R. P. Act.

The petition having been reserved for orders on I.A. III after hearing, this day the court pronounced the following order :

ORDER

The first respondent was declared to have been elected to the House of People from the 26-Chikkodi (SC) Parliamentary Constituency, Karnataka, as per the declaration of results dated March 2, 1998 issued by the 2nd respondent under Section 66 of the Representation of the People Act 1951, hereinafter called 'the Act'. The petitioner filed this petition to set aside the declaration of election of respondent no. 1 under Section 123(1), 123(7) and 123(8) read with Section 100(1)(b), 100(1)(c) and 100(1)(d)(ii) of the Act. He has also sought for a declaration that the result of the election of respondent no. 1 has

been materially affected under Section 100(1)(d)(iii) and (iv) of the Act and to name respondent No. 1 as having committed corrupt practice under Sec. 98 of the Act and such other person who have committed the corrupt practices and also to declare that the rejection of nomination papers of the petitioner is improper under section 100(1)(c) of the Act.

2. Pursuant to the publication of calendar of events, the petitioner, the first respondent and 9 others presented their nomination papers before the 2nd respondent in respect of the elections to be held to the House of People from 26-Chikkodi (SC) Parliamentary Constituency. At the scrutiny it was found that the petitioner and one Mahendrananda Joti Rao Manikale were not proposed by atleast ten persons and hence their nominations were rejected. After the election, the first respondent was declared to have been duly elected by securing 3,59,760 votes. The difference between the votes secured by the first respondent and the second best candidate was 1,31,238 votes.

3. As stated supra, the petitioner has filed this election petition to set aside the election of the first respondent alleging that he committed corrupt practices under sec. 123(1), 123(7) and 123(8) of the Act.

4. The first respondent having entered appearance filed three interlocutory applications in IAS-II, III and IV, one under sec. 87 of the Act read with Order VII Rule 11 and Order VI Rule 16 CPC; another under Sec. 87 read with Order VII Rule 11 and order VI CPC and the third one under Sec. 151 CPC for extension of time for filing written statement after the disposal of IAs 2 and 3. I.A. 3 was filed to reject the election petition for want of material particulars in respect of the allegations regarding corrupt practices.

5. In para-6 of the affidavit filed in support of I.A. III, it is stated as follows :

"6. I submit that the allegations of corrupt practices in an election petition requires crucial investigations into the allegation of corrupt practices and at whose instance, the furtherance of the prospectus of the returned candidate is improved and in all the way that is helpful to the returned candidate to elect at the election is pivotal issue before the Court of law and it requires material facts with documents and specific allegations of naming of persons who are involved in the corrupt practices is required, as laid down by this Hon'ble Court and the Hon'ble Supreme Court of India in a plethora of judgments. Such being the lack of information and materials facts not naming such persons, the election petition is liable to be dismissed at the threshold of framing preliminary issues."

In sum and substance, it was contended by the first respondent that the election petition is liable to be dismissed under Section 87 of the Act read with Order VII Rule 11 CPC for not disclosing the cause of action.

6. The question whether an election petition not setting forth full particulars of the corrupt practice alleged against the returned candidate would render the said petition infirm and liable to be dismissed under Order VII Rule 11 CPC is no more res integra. The Supreme Court in *HARDWARI LAL Vs. KANWAL SINGH*, AIR 1972 S. C. 515 has held that an election petition may be dismissed for want of cause of action. The relevant observation reads thus :

"23. Counsel on behalf of the respondent submitted that an election petition could not be dismissed by reason of want of material facts because section 86 of the Act conferred power on the High Court to dismiss the election petition which did not comply with the provisions of Section 81 or Section 82 or Section 117 of the Act. It was emphasized that Section 83 did not find place in Section 86. Under Section 87 of the Act, every Election Petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure 1908, the trial of suits. A suit which does not furnish cause of action can be dismissed."

7. In *AZHAR HUSSAIN vs. RAJIV GANDHI* AIR 1986 S. C. 1253, the Supreme Court after considering the catena of decisions in respect of the power of the courts trying election petitions to dismiss such petitions in exercise of power under Order VII Rule 11 of the Civil Procedure Code read with Section 87 of the Act, has observed as follows :

"...In *Udhav Singh's case* (1977) 1 SCC 511: (AIR 1977 SC 744) the law has been enunciated that all the primary facts which must be proved by a party to establish a cause of action or his defence are material facts. In the context of a charge of corrupt practice it would mean that the basic facts which constitute the ingredients of the particular corrupt practice alleged by the petitioner must be specified in order to succeed on the charge. Whether in an election petition a particular fact is material or not and as such required to be pleaded is dependent on the nature of the charge levelled and the circumstances of the case. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of Section 83(1)(a). An election petition therefore can be and must be dismissed if it suffers from any such vice."

8. The Supreme Court in the same case, while repelling the contention that even if the court has power to dismiss an election petition summarily otherwise than under section 86 of the Representation of Peoples Act, the power cannot be exercised

at the threshold, has explained the purpose of conferment of such power in the following words :

"...The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary Civil litigation the Court readily exercises the power to reject a plaint if it does not disclose any cause of action. Or the power to direct the concerned party to strike out unnecessary, scandalous, frivolous or vexatious parts of the pleadings."

9. The Supreme Court considered it appropriate to restate the settled position of law as emerged from the numerous decisions of the Supreme Court in regard to the question as to, what exactly is the content of the expression 'material facts and particulars', which the election petitioner shall incorporate in his petition by virtue of Section 83(1) of the Act, in the following words :—

"(1) What are material facts and particulars ?

Material facts are facts which if established would give the petitioner the relief asked for. The test required to be answered is whether the Court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the election petition on the basis of the facts pleaded in the petition. [(1969) 3 SCR 217 : (AIR 1969 SC 734)—*Manubhai Nandlal Amarsey v Popatlal Manilal Joshi*.

(2) In regard to the alleged corrupt practice pertaining to the assistance obtained from a Government servant, the following facts are essential to clothe the petition with a cause of action which will call for an answer from the returned candidate and must therefore be pleaded : [(1972) 2 SCR 742 : (AIR 1972 SC 515) *Hardwari Lal v. Kanwal Singh*].

- (a) mode of assistance;
 - (b) measure of assistance; and
 - (c) all various forms of facts pertaining to the assistance.
- (3) In the context of an allegation as regards procuring, obtaining, abetting or attempting to obtain or procure the assistance of Government servants in election it is absolutely essential to plead the following :
- (a) kind or form of assistance obtained or procured;
 - (b) in what manner the assistance was obtained or procured or attempted to be obtained or procured by the election candidate

for promoting the prospects of his election [AIR 1972 SC 515].

- (4) The returned candidate must be told as to what assistance he was supposed to have sought, the type of assistance, the manner of assistance, the time of assistance, the persons from whom the general and specific assistance was procured [AIR 1972 SC 515].
- (5) There must also be a statement in the election petition describing the manner in which the prospects of the election were promoted and the way in which the assistance was rendered. [AIR 1972 SC 515] (supra)
- (6) The election petitioner must state with exactness the time of assistance, the manner of assistance, the persons from whom assistance was obtained or procured, the time and date of the same, all these will have to be set out in the particulars. [AIR 1972 SC 515] (supra)"

10. The observations of the Supreme Court in "*Azhar Hussain*" with regard to finding of the High Court in respect of the allegations of the Election Petitioner in the Election Petition lays down the importance of "material particulars" with respect to allegations of corrupt practices as mentioned hereunder

The view of the High Court in respect of certain slogans alleged to have been painted against the candidate that,

"...The pleading was so vague that it left a wide scope to the appellant to adduce evidence in respect of a meeting at any place on any date that he found convenient or for which he could procure witnesses. The pleading, in fact, was so vague and was wanting in essential particulars that no evidence should have been permitted by the High Court on this point..."

receive the approval of the Supreme Court.

Considering ground no. 15, the Supreme Court was held as follows :

"36. Alleged corrupt practice as incorporated in ground no. XV reads as under :

"That during the course of the campaign the respondent, his election agent and his party brought into existence a propaganda committee to further the prospects of the respondent's election. This committee was called the "Amethi Matdata Parishad". Through the agency of this Committee, the respondent, his election agent and others with their consent and knowledge caused another pamphlet to be printed, published and circulated during the entire election campaign under the title, "How do Intelligent people think? Who is an obstacle in the progress of

Amethi?" The said pamphlet inter alia, contains the following statement :

"That Maneka Gandhi is surrounded only by antisocial elements. She was also seen in the company of terrorists. Her whole campaign is based on money.... In my view, Maneka seems to have a big hand in the fire of Punjab. Maneka has no merit of her own. If she had anything in her, it would have come out before her marriage to Sanjay.... If she had any desire for leadership or service of the country, she would have co-operated with her husband. Politics is for her a pursuit of pleasure ["Shaukiya Dhandha"]. Therefore, she is conducting her politics on the strength of people like Haji Masthan and Virendra Shahi.... A woman who could not protect the honour of a vast country like India.... Maneka is the destroyer of the country".

The petitioner says that the entire trend of this pamphlet and the propaganda conducted on the basis thereof casts serious aspersions on the personal character of a candidate. Each of these statements is false to the knowledge of the respondent and others. The printing, publication and circulation of the said pamphlet and the propaganda based thereon was, in any event, done by the agents of the respondent and in the interests, of the election of the respondent. These statements are in relation to the personal character or conduct of a candidate and they are in relation to her candidature. These statements were reasonably calculated to prejudice the prospects of the petitioner's election. The election of the respondent is thus liable to be declared void under section 100(1)(b). This was also liable to be set aside under Section 100(1)(d)(ii), in as much as, the result of the election in so far as it concerned the returned candidate, has been materially affected by this gross corrupt practice.

In this pamphlet, the same Jagdish Piyush who is referred to in the pamphlet in the preceding paragraphs, is one of the contributors and in that contribution, he has referred to his publication mentioned in the previous paragraphs.

Why the High Court held that material facts and particulars are absent and did not disclose a cause of action ?

37. The High Court observed :—

"The petitioner has set out specific statements from this pamphlet commenting adversely on the character and conduct of Smt. Maneka Gandhi where, inter alia, her association with terrorists and other persons of questionable antecedents was set out. It has been stated that these statements are false to the knowledge of

the respondent and others and the pamphlet was distributed by the agents of the respondent in the interest of the election of the respondent and that the result, so far as the respondent is concerned, has been materially affected by the corrupt practice. Here also, the petitioner has made an omnibus statement of the printing, publication and circulation of the pamphlet by the respondent, his election agent and others with their consent and knowledge without trying to pinpoint the particular person who had done so. The places, dates where the pamphlets were distributed have also not been indicated. It was necessary for the petitioner to do so under the law as set out above. The pleading is, therefore, vague, embarrassing and lacks in material facts and, therefore, must fail. The petitioner's prayer for an amendment to delete the proposal to file a copy of the pamphlet is allowed as it is evidence and not integral part of the petition."

Whether the High Court was right in taking the aforesaid view ?

38. In view of the doctrine laid down in Nihal Singh's case [1970(3) SCC 239](supra) as early as in 1970, the High Court was perfectly justified in taking the view that no cause of action was made out. For, in the absence of material particulars as to who had printed, published or circulated the pamphlet, when, where and how it was circulated and which facts went to indicate the respondent's consent to such distribution, the pleading would not disclose a cause of action. There would be nothing for the respondent to answer and the matter would fall within the doctrine laid down in Nihal Singh's case (supra). The learned counsel for the appellant is unable to show how the Court has committed error in reaching this conclusion."

Thus the view of the High Court that the pleading is, therefore, vague, embarrassing and lacks in material facts in so far as it relates to the places, the dates where the pamphlets were distributed have also not been indicated, and therefore must fail, received the approval of the Supreme Court.

11. Section 83(1) of the Act deals with the contents of the election petition and it reads as follows :

"83. Contents of petition :—

(1) An election petition,—

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of

the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

12. The election of the first respondent is sought to be set aside by the petitioner on the ground of Corrupt Practices under Section 123(1), 123(7) and 123(8) of the Act alleging that the first respondent and his agents with the consent and knowledge of the first respondent have distributed liquor to the voters and thus committed an act of gratification with the object of inducing the electors to vote at the election as a reward to the first respondent; The first respondent procured the assistance for furtherance of the prospects of his election from the 2nd respondent and the Assistant Returning Officer and the officials in the Revenue Department and Police Department in the constituency who have been in the services of the Government and the supporters of respondent no. 1 committed an act of booth-capturing with the consent and knowledge of the first respondent. The relevant averment made in respect of the aforesaid allegations of corrupt practices under Section 123(1) of the Act reads as follows :

"7. The respondent number 1 has also committed corrupt practice u/s 123(1) in various other names. The material particulars are as under. The workers and agents of the first respondent with the consent and at the instruction of the first respondent has distributed the liquors in almost all villages on 14-2-1998 and 15-2-1998 by inducing and threatening to the voters to vote in favour of the first respondent. All the liquor pockets had been stored in the godown of Laxman S. Savadi at Athani. The said liquors pockets were sent to all the Taluka Head Quarters of the Chikkodi Parliamentary Constituency to distribute the same to the voters. Sri S. R. Patil and T. A. Patil who are the supporters of the first respondent and with the consent of the first respondent have distributed the liquors pockets in Shiraguppi, Satapur, Jugul, Kagawad and Ugar Khurd villages, on 15-2-1998. In the same manner the Prabhakar kore of Ankali has supplied and distributed the liquors pockets in the villages of Chikkodi Taluk. And in the same manner liquor was distributed in villages of Raibaz Taluk under the supervision of Prathap Rao Patil and by Sri Kage of Ugar village distributed in Kagawad area. Thus the first respondent by supplying the liquors to the voters and

by distributing the money to the voters by his agents and workers of Lokashakti party has committed the corrupt practice u/s 123(1) of the R. P. Act.

8. The first respondent who was a Revenue Minister in the State Government has started the various government welfare schemes just before resigning from the Ministry which were continued during the election. Widow pension and the benefit of Aradhana and Ganga Kalyani schemes were started and given to various persons who, were the workers and supporters of the first respondent with the help of concerned government officials. And the lift irrigation project of Saudi and janwad area was started during the month of November, 1997. The said project was in progress during the election. And pipeline was laid and benefit was given to the workers and supporters of the first respondent under Ganga Kalyani scheme, by the first respondent as a Revenue Minister. The Government land was granted to the supporters of the first respondent in the Athani Taluk, when the first respondent was a Revenue Minister just prior to declaration of Election. Though the said schemes have been started prior to election and said work was in progress and continued and supervised by the first respondent even at the time of election. Thus the first respondent has committed corrupt practice under Section 123(1) of R.P. Act.

9. The First Respondent with the help of the workers and supporters and agents has induced the voters and agents of other candidates to vote in his favour by threatening the voters and by kidnapping the agents of other political parties and committed the corrupt practice under Section 123(1) of the R.P. Act. The material particulars are as under. Sri. Pratap Patil of Raibag is a strong supporter and worker of the first respondent. Sri. Ramesh Sane of Mavinahonda village of Raibag taluk was the agent of congress candidate. Sri. Pratap Patil tried to induce Sri Ramesh Sane to work in favour of the first respondent. As he refused, he was kidnapped with the knowledge of the first respondent by Sri Pratap Patil and his supporters. The said incident took place on 15-2-1998 and police complaint was also lodged to that effect to the Raibag police station."

13. From the aforesaid allegations the following emerges :—

- (a) The workers and agents of the first respondent with the consent and instruction of the first respondent distributed liquor in almost all villages on 14-2-1998 and on 15-2-1998;
- (b) The liquor pockets were stored in the godown of Laxman S. Savadi at Athani and

they were sent to all Taluk Headquarters of Chikkodi Parliamentary Constituency for distribution ;

- (c) Sri S. R. Patil and T. A. Patil the supporters of the first respondent have distributed the liquor pockets in certain villages with the consent of the first respondent on 15th February, 1998 ;
- (d) In the same manner one Mr. Prabhakar Kore of Ankali and one Mr. Pratap Rao Patil and Sri. Kage of Ugar village of Chikkodi Taluk, have distributed liquor in Ugar Village and Kagawad area.

14. The allegation of corrupt practice is vague, unintelligible and lacks material particulars. They did not satisfy the requirements of clause (b) of section 83(1) of the Act. The allegation of distribution of liquor on 14th February, 1998 and on 15th February, 1998 by the supporters of the first respondent on his instructions lacks particulars as to the place of distribution and time of distribution and the names of the persons who distributed the liquor. There are no particulars as to the relationship between first respondent and Laxman S. Savadi of Athani. There are no particulars as to why and at whose instance and for what purpose the said Laxman S. Savadi had stored the liquor and through whom they were sent. It is true that two names have been mentioned in respect of the alleged distribution of liquor at Shiraguppi, Sabapur, Jugul, Kagawad and Ugar Khurd villages on 15th February, 1998; but it lacks particulars of the time and places and the name of persons and the number of persons to whom they were distributed. In respect of distribution at Raibag or Chikkodi Taluk or Kagawad area the particulars of the villages, the names of persons who distributed are not available.

15. In so far as the allegation relates to beneficial programmes introduced by the Government when the first respondent was a minister, they also lack particulars. It is admitted that the petitioner was not the minister during the election. It is further admitted that all the developmental programme commenced in the year 1997. In this view of the matter, the introduction of developmental programme by the Government at a time when the election was not announced would not come within the meaning of gratification to the voters. Even otherwise, the particulars of the beneficiaries, the date of grant of benefits or concessions or largesse and the particulars of persons who distributed those largesse are all lacking in the petition. The allegation of threat to the voters and the agents belonging to other group also lacks particulars besides being too vague. It does not contain the names of the supporters and agents of the congress candidate who were threatened and there is no particulars as to whose instance, knowledge and consent Sri Ramesh Sane was kidnapped by Sri Prathap Patil, nor was there any allegation that he was the election agent of the first respondent. No material particulars as prescribed by clause (b) of section 83(1) have been furnished by the petitioner in the election petition in respect of the allegations of corrupt practice under Section 123(1) of the Act.

16. The allegations in respect of Section 123(7) of the Act are contained in paragraphs 2 to 6 of the petition and they read as follows :

- "2. The respondent number 1 was a Revenue Minister in the Government of Karnataka prior to issuing of calendar of events of the General Election of Parliament. As such all the Revenue Officials were under his control and supervision. The first respondent was strong person having a Revenue Ministry. In the Ministry of Government of Karnataka. As such the officials of Revenue and Police Department are obedient to him. After withdrawal of support by the Congress party to the then United Front Government at the Centre, the respondent no. 1 had a plan to contest the parliamentary election from Chikkodi Parliamentary Constituency, as it was reserved seat. As a Revenue Minister he called several meetings of Revenue Officials and Officials of police department of Chikkodi Sub-Division. And influenced them to assist in his election. The respondent no. 2 and other officials of the State Government acted as the agents of the first respondent during the election. Thus, the 2nd respondent at the instruction of the first respondent wanted to reduce the number of contesting candidate to avoid the splitting of votes against Sri B. Shankarananda the strong Congress (I) Candidate. The petitioner along with his supporters went to file his nomination papers on behalf of RJD Party along with Form "A" and Form "B" on 28-1-1998. At the time of filing nomination the 2nd respondent informed to the petitioner that the proposal of One Person is sufficient for his nomination paper. Though the petitioner went along with more than 20 persons to file nomination, by believing and relieving on the words of the 2nd respondent, he took the signature of only one person as a [Proposer] and submitted the papers. But, at the time of scrutiny the nomination papers of the petitioner was rejected on the ground that the nomination is not proposed by at least 10 persons on 29-1-98. Thus the 2nd respondent will fully misguided and mislead the petitioner just to help the first respondent in the election.
- 3. The respondent number 1 has obtained the assistance for the furtherance of the prospects of his election from the persons who are in services of the Government of Karnataka contrary to Section 123(7) of the R.P. Act. The material particulars of the persons who have rendered assistance with the consent of the respondent number 1 are as under:
- 4. The Respondent number 1 was a Revenue Minister in the Government of Karnataka prior to declaration of General Elections of Parliament. As such all the officials of Revenue Department and officials of police

and Excise department were under his control. As such they were obedient to him. As a revenue minister he had called the several meetings of Revenue Officials and officials of police department of Chikkodi sub-division separately. As a Minister he had induced and sought the assistance of all the Government Employee during the election. The first respondent immediately after declaration of the elections has resigned from the Ministry and joined the Lokashakti party and filed nomination for the election to the house of people from Chikkodi Constituency. The respondent number 1 has obtained and taken the assistance of the Respondent No. 2 in furtherance of his prospects of his election from the following persons. The respondent No. 2 and Sri A. J. Dhumale the Assistant Returning Officer are the Gazetted Officers and they are in the service of the Government of Karnataka. Throughout the election from the date of the issue of Calendar of events till declaration of results and thereafter they have acted as agents of respondent number one and they have rendered assistance with his consent in furtherance of the prospects of respondent number in contravention of Section 123(7) of the RP Act. The material particulars are as under :

5. The respondent number 2 acted in a partisan manner in favour of the respondent number 1 and rendered assistance against all cannons of justice to see that the respondent number 1 wins in the election by hook and crook. In that behalf he along with the assistant returning officer have actively participated in the election process in a manner unheard of. In all 15 nomination papers were filled before the 2nd respondent, for the Chikkodi constituency including the petitioner and one Sri Mahendrananda Joti Rao Mankale. The petitioner filed nomination from the RJD party and said Mankale filed nomination from the RPI party and one nomination from Janta Dal and one nomination from Indian National Congress, the first respondent from the Loka Shakti party. The remaining 10 persons filed nominations as independent candidates. The 2nd respondent misguided the petitioner and another candidates Mankale who had filed nominations from RJD party and RPI party, to the effect that as they are candidates of political parties signature of only one proposer is sufficient for their nomination, by believing the words of the 2nd respondent both have got the signature of only one proposer, though they had gone along with more than 20 supporters to file the nomination. Thus the 2nd respondent by misguiding to the petitioner and Sri Mankale got nominations rejected just to avoid the splitting of votes against Sri B. Shankrananda the Congress I candidate and to assist the first respondent and the prospects of his elections.

6. At the instructions of the 2nd respondent the polling officials and officials of police departments and with the consent of the first respondent has allowed the supporters and workers of the Lokashakti party to vote many times in Jugul, Shiraguppi and other polling stations. And no action has been taken by the polling officials though it was brought to their notice by the contesting candidates. Though the booth capturing and rigging was done by the wrokers and agents of the first respondent with the consent of the first respondent no action has been taken by the 2nd respondent and polling officials to stop the same. Thus the first respondent has obtained and taken the assistance of the 2nd respondent and other persons in the service of the Government of Karnataka in furtherance of his prospects of his election in contravention of Section 123(7) of the RP Act."

17. From the aforesaid allegations it is not possible to make out as to when the Revenue Minister convened the meeting of all officials, Revenue as well as the police of the Chikkodi Constituency. The dates of meeting are not mentioned. The particulars of request or instruction issued by the first respondent to the government officers are not furnished. The petition also does not contain any averment as to any threat extended by the first respondent to the officials. The petition also does not contain any allegation as to the relationship between the first respondent and the public seravnts in the Chikkodi constituency. It also does not give the particulars of the officers who throughout the election from the date of issue of calendar of events till the declaration of results and thereafter have acted as agents of first respondent. It is true that the nomination papers presented by the petitioner was rejected as it did not satisfy the requirements of law, in as much as, not proposed by atleast 10 persons. The allegation is that the Returning Officer told him that there was no need for him to secure the signature of 20 supporters as he belong to a political party. The election petition lacks particulars as to the instructions given by the first respondent to the 2nd respondent to reject his nomination papers or to see that the petitioner did not file nomination papers in accordance with law. When the petitioner filed the nomination papers not in accordance with law he has to suffer the consequences. In the absence of any particulars regarding place, time and date and whether the first respondent instructed the 2nd respndent to wrongly advise the petitioner to file incorrect nomination papers, it has got to be held that the petition lacks particulars prescribed by clause (b) of section 83(1) of the Act. Absolutely, there is no averment as regards the booth capturing even though a faint attempt was made that the polling officials allowed the supporters of the first respondent at two places to vote repeatedly. No particulars were furnished as to the names of the polling officers the number of polling station and the names of persons or number of persons who were allowed to vote repeatedly at the same polling booth. Not even an averment was made as to the booth capturing to bring the case within section 123(8) of the Act.

18. For the reasons aforesaid, I.A. III will have to be allowed and the petition has to be rejected at the threshold for want of material particulars, as the petitioner did not even make any attempt to seek for amendment of the petition.

19. In the result, I.A. III is allowed. The Election Petition is dismissed under Section 87 read with Order VI Rule 11 of the Code of Civil Procedure, with costs of Rs. 1000 payable by the petitioner to the first respondent. The same may be paid out of the security deposit. The balance of the security deposit shall be returned to the petitioner.

Deputy Registrar

High Court of Karnataka, Bangalore

[No. 82/KT-HP/3/98/99]

By Order,

BABU RAM, Secy.

नई दिल्ली, 17 मई, 1999

आ. प्र. 125--निर्वाचन आयोग 1998 की निर्वाचन अर्जी सं. 3 में तारीख 19.4.1999 का अन्ध्र प्रदेश उच्च न्यायालय का निर्णय/आदेश लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में एतद्वारा प्रकाशित करता है।

(निर्णय/आदेश अधिसूचना के अंग्रेजी भाग में छपा है।)

[स. 82/आ.प्र.--लो.स.3/98/99]

आदेश से,

बाबू राम, सचिव

New Delhi, the 17th May, 1999

O.N. 125.--In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement/Order of the High Court of Andhra Pradesh dated 19-4-1999 in Election Petition No. 3 of 1998.

IN THE HIGH COURT OF JUDICATURE,
ANDHRA PRADESH AT HYDERABAD

Monday the Nineteenth Day of April

One Thousand Nine Hundred and Ninety Nine
PRESENT :

The Hon'ble Mr. Justice Ramesh Madhav Bapat

E.A. Nos. 1520, 1521 & 1522/98 & E.P. No. 3/98
C.T. in E.A. Nos. 1520, 1521 & 1522/98

BETWEEN :

Bhooma Veera Nagi Reddy ... Petitioner in
all E.As (Respondent in EP 3/98 on
the file of High Court.)

AND

G. Pratap Reddy ... Respondent in all E.As
(Petitioner in E.P. 3/98 on the file of
High Court.)

PRAYER IN E.A. NO. 1520/98 :

Petition under Rule 16, Order VI C.P.C. R/W Sec. 83 and 87 of R.P. Act, 1951 praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to strike off the pleadings contained in paragraphs 10 to 22 of the above Election Petition with special reference to the allegations contained in paragraphs 12 to 16 in exercise of the powers conferred upon this Hon'ble Court under Rule 16 of Order VI of C.P.C., R/W Sec. 83 and 87 of the Representation of People Act, 1951 by way of taking up the matter as preliminary issue.

PRAYER IN E.A. NO. 1521/98 :

Election Application Under Order VII, Rule 11 of C.P.C., praying that in the circumstances stated in the Affidavit filed there with the High Court will be pleased to dismiss the above Election Petition under Order VII, Rule 11 of C. P. C., R/W Sec. 83 and 87 of Representation of People Act, 1951 as it did not disclose any cause of Action for trying any triable issue.

PRAYER IN C.A. NO. 1522/98 :

Election Application under Section 81(1) of R.P. Act, praying that in the circumstances stated in the Affidavit filed there with the High Court will be pleased to dismiss the above Election Petition as time barred in view of the submissions made in paragraph 17 of the written Statement and the submissions contained in the affidavit filed in support of the above E.A., in the light of the provisions contained in Sec. 81(1) of Representation of People Act, 1951.

ELECTION PETITION NO. 3/1998 :

BETWEEN :

G. Pratap Reddy ... Petitioner

AND

Bhūma Veera Nagi Reddy ... Respondent

Election Petition filed Under Section 80, 81 & 100 of Representation of People Act, 1951 praying that in the circumstances stated in the Affidavit filed therewith the High Court will be pleased to
(a) declare the election of respondent No. 27

Nandyal Parliamentary Constituency for the 12th Lok Sabha as null and void and consequently set aside the same.

(b) that the costs of the petition be awarded to the petitioner.

For the petitioner in E.P. and

For the respondent in all E.As.

Mr. C.V. Nagatjuna Reddy, Advocate

For the respondent in E.P. and

For the petitioner in all E.As :

Mr. M.R.K. Chowdary Senior Counsel

For Mr. P. Veera Reddy, Advocate

The Court made the following order :—

THE HON'BLE SRI JUSTICE RAMESH
MADHAV BAPAT

E.A. Nos. 1520 to 1522 of 1998

and

Election Petition No. 3 of 1998

ORDER :

The above Election Petition is filed by one G. Pratap Reddy against Bhuma Veera Nagi Reddy with a prayer to declare the election of the sole respondent to No. 27 Nandyal Parliamentary Constituency for the 12th Lok Sabha as null and void and consequently set aside the same. It was further prayed by the petitioner that he will be awarded the costs of the petition and such other orders which the Court thinks fit.

It was averred by the petitioner that he was constrained to file this election petition under sections 80, 81 and 100 of Representative of People Act, 1951 in order to challenge the election of the respondent as a Member of Parliament from No. 27 Nandyal Parliamentary Constituency in the election held on 16-2-1998.

It is further pleaded that the petitioner herein contested as Member of Parliament from No. 27 Nandyal Parliamentary Constituency on Indian National Congress ticket in the Mid-term Election held for 12th Lok Sabha. The polling for this constituency took place on 16-2-1998 and the respondent was the rival candidate who contested on Telgu Desam Party ticket.

It is the further case of the petitioner that he was a Member of Andhra Pradesh Legislative Assembly for two terms. The petitioner contested as Member of Parliament from Nandyal Parliamentary Constituency and won the election in the year 1991 with a majority of about 1,87,000 votes. Subsequently the petitioner resigned to facilitate

the then Hon'ble Prime Minister Sri P. V. Narasimha Rao to contest from Nandyal Parliamentary Constituency.

It is the further case of the petitioner that the respondent is involved in number of Criminal Cases. The particulars of the Criminal Cases in which the respondent was shown as accused is given in Annexure-I.

It is the further case of the petitioner that one Sri Byreddy Rajasekhar Reddy, M.L.A. of Nandikotkur belongs to Telugu Desam Party and he is a person with known criminal record. He is an accused in number of criminal cases and is a notorious factionist. A Division Bench of this court in W. P. No. 20166 of 1996 which is reported in 1997 (6) ALT 625 made a reference about the faction politics of the respondent as well as Sri Byreddy Rajasekhar Reddy. A xerox copy of the same is filed at Annexure-II.

My Byreddy Rajasekhar Reddy and the respondent are known criminal persons and they are adept of terrorising people and the officials in their constituencies to achieve their nefarious ends both politically and to make wrongful gain.

The Commissioner of Prohibition and Excise issued a Circular consisting of persons who were found in boot legging and smuggling IML in the State. The respondent and Rajasekhar Reddy figured in the said list. Xerox copy of the same is filed at Annexure-III.

It is the further case of the petitioner that on the eve of the mid-term Parliamentary elections Sri Rajasekhar Reddy started making sweeping statements to the effect that he would secure a record of majority in Nandikotkur Assembly segment in favour of the respondent than any other Assembly segment in Kurnool District. Some of the statements recorded in the Press are filed as Annexure-IV. Consequently the petitioner presented a representation on 5-2-1998 and brought to the notice of the Election Commissioner wherein the petitioner mentioned inter alia of the high-handedness and violation of the Election Code of conduct by the respondent. A xerox copy of which is filed as Annexure-V. It was reported that the respondent was planning to resort to large scale rigging, stamping and cycling at Nandhyal Town. The petitioner also presented another representation to the Chief Election Commissioner through his representative Sri D. M. Ramachandra Reddy, Advocate of Nandyal to Sri M. S. Gill, Chief Election Commissioner during his visit to Kurnool on 11-02-1998. A copy of the representation is filed at Annexure-VI. Similar representation through Fax was sent to the Chief Election Commissioner, New Delhi on 12-2-98. A copy of the representation is filed at Annexure-VII and the Fax confirmation report is filed at Annexure-VIII.

It is the further case of the petitioner that he gave a representation dated 14-02-1998 to the Returning Officer bringing to his notice that Sri Rajasekhar Reddy is threatening the voters of Nandikotkur Assembly segment and requesting to deploy adequate number police force at the polling stations. A copy

of the said representation is filed at Annexure-IX. Another representation was made on 15-2-1998. It was given to the Returning Officer indicating therein the places where Sri Rajasekhar Reddy is likely to indulge in booth capturing and other malpractices by resorting to violence. A copy of the same is filed at Annexure-IX-A.

The petitioner further submits that despite the petitioner alerting the official machinery connected with the conduct of elections, adequate police force was not deployed in any of the Assembly segment of Nandyal Parliamentary Constituency including the Nandikotkur Assembly segment at the instance of the respondent. Sri Rajasekhar Reddy held complete way over major part of the Nandikotkur Assembly segment in which he forced the voters to cast their votes by open ballot system on the date of poll i.e., on 16-2-1998. Sri Rajasekhar Reddy and his followers went round various polling stations, dragged the polling agents of the petitioner out of the polling booths and indulged in digging, stamping and cycling. The public were threatened by Sri Rajasekhar Reddy and his henchmen and did not allow the public to vote by threatening that if they vote in favour of the petitioner, their dead bodies would float in river Krishna. The polling staff and the police force at the polling stations remained mute spectators. The petitioner and Sri Vijaya Kumar, an Advocate of Nandikotkur, who went round various booths in Nandikotkur town have witnessed these atrocities perpetrated by Sri Rajasekhar Reddy and his henchmen near booth Nos. 66 to 89. While the Police failed to take any action either to prevent

or to take cognizance of these malpractices, the agents of the petitioner did not dare to give formal complaints being mortally afraid of Sri Rajasekhar Reddy. The petitioner went to the Police Station at Nandikotkur Town to give report about the incidents that were happening at the polling stations and sought police aid to prevent the out-going booth capturing. To his surprise neither the Sub-Inspector nor the Circle Inspector of the Police Station were present. On noticing this situation, the petitioner spoke from Nandikotkur to the Returning Officer who was in his office at Nandyal at 10-30 a.m. over phone, giving him details and nature of various malpractices, irregularities and the polling stations in which the malpractices and irregularities were taking place. The petitioner requested the Returning Officer to issue necessary instructions to stop the polling in those places. Representative of the petitioner Sri D. M. Ramachandra Reddy also gave a complaint to the Returning Officer over phone 3 or 4 times on the morning of the polling day on the instructions given by the petitioner to him to persuade the Returning Officer to take necessary steps to prevent the ongoing booth capturing, but nothing was done in this regard.

The petitioner gave a detailed representation on 16-2-1998 mentioning all irregularities and malpractices indulged in by Sri Rajasekhar Reddy at the behest of the respondent to the Election Commissioner. A copy of the complaint sent to the Election Commissioner is filed at Annexure-X. The petitioner has given the details of 23 polling stations in the Nandikotkur Assembly segment in respect of which the ballot boxes were kept aside are as follows :

Hall No. 1

Sl. No.	Polling Station	Village	Votes polled	Unsigned Ballot paper
1.	61	Tarigopula	963	31
2.	87	Nandikotkur	382	15
3.	105	Paramanchala	410	34
4.	117	Nagatur	771	21
			2526	101

Hall No. 2

Sl. No.	Polling Station	Village	Votes polled	Unsigned Ballot paper
1.	31	Kothaprabhakota	500	2
2.	44	Malyala	580	3
3.	64	Tharthuru	483	1
4.	76	Nandikotkur	527	2
5.	77	Nandikotkur	497	2
6.	78	Nandikotkur	803	2
7.	96	Kollahapuram	385	1
8.	104	Paramanchala	434	1
9.	148	Bannur	336	2
10.	164	Naanur	565	1
11.	62	Tharigopula	945	11
12.	14	Kothamuchumarri	563	42
13.	24	Pagidala	416	09
14.	40	Nagatur	768	38
15.	108	Thimmapuram	562	11
16.	116	Brahmanakotkur	570	45
17.	118	Papipalem	394	19
18.	156	Thitpayapalle	518	11
19.	184	Somayajulapalle	623	03
			10479	184

It is the further case of the petitioner that after these 23 boxes were kept apart and the counting of other votes was in progress, he left the counting place in order to supervise other counting centres, bona fide believing that the Returning Officer and the Election Observer have excluded the ballot papers contained in 23 boxes from counting. By the time the petitioner came back to the counting place relating to Nandikotkur Assembly segment, the second round of counting was completed and the third round was commenced in Hall No. 1. On entering the counting Hall No. 2, the petitioner's counting agent at Asstt. Returning Officer's table by name Sri A. Sreenivasa Reddy, Advocate of Nandyal informed the petitioner that 11 out of 23 ballot boxes which were earlier kept aside were mixed and being counted along with other ballot papers in the third round. The 11 ballot boxes pertaining to 11 polling stations are Nos. 32, 44, 64, 76, 77, 78, 96, 104, 148, 164 and 62. By the end of third round in Hall No. 1, counting of 4th round was completed in Hall No. 2. Despite the counting disputed boxes in Hall No. 2 in Round No. 3 the petitioner had an overall lead of 3086 votes. The fact that the petitioner was still leading created panic in the TDP camp consisting of the respondent and his followers started exerting pressure on the Returning Officer. The petitioner noticed that the Returning Officer received several phone calls from the Chief Minister's Office and Chief Secretary from Hyderabad and he was engaged in prolonged telephone conversations. The Returning Officer's gestures noticed by the petitioner during the conversations clearly made it evident that there was severe pressure from the other end to persuade him obviously to see that the respondent would win the election. At the end of lengthy conversations, the Returning Officer orally instructed the counting staff to count eight more boxes out of the remaining 12 boxes. At this juncture the petitioner gave a complaint in writing in which he has categorically asserted that there was clinching evidence to show that the respondent indulged in several malpractices such as rigging, cycling, impersonation etc., and that in view of the same, re-poll was ordered and that alternatively to reject all the votes in the eight boxes including three boxes in Hall No. 1 and five boxes in Hall No. 2.

It is the further case of the petitioner that on the basis of counting votes in all the other six Assembly segments and the votes relating to Nandikotkur Assembly segments except those contained in 23 boxes which were kept aside till the last moment of the counting, several T. V. channels flashed the information that the petitioner had won. The Returning Officer, however, changed the course of result by directing counting of these 23 ballot boxes and on such counting he declared the respondent had won by a margin of 4650 votes. Under these circumstances, it was prayed by the petitioner that the election of the respondent to No. 27 Nandyal Parliamentary Constituency for 12th Lok Sabha be declared as null and void.

On presentation of the Election Petition, notice was issued to the respondent. On appearance, the respondent filed his written statement and he denied all the allegations that are made in the election petition against the respondent except which are specifically

admitted. The averments in para 4 which relates to the description of the Constituency indicating the date of election etc., has been admitted. The contents of Para (5) of the election petition that the petitioner herein resigned from Member of Parliament to facilitate the then Prime Minister Sri P. V. Narasimha Rao to contest the election etc., have been denied, but it is stated that on vacancy, Sri P. V. Narasimha Rao contested election from the said Parliamentary Constituency. There is nothing on record to show that his resignation was only to facilitate Sri P. V. Narasimha Rao to contest.

The contents of para (6) of the election petition are alleged to be not relevant for the purposes of election petition. The contents of para (7) of the election petition that the respondent involved in number of Criminal Cases has been denied as wholly not correct. The petitioner was put to strict proof thereof all the allegations made therein. It is further stated by the respondent that the verification made by the Election Petitioner is bound to be treated as improper, irregular and contrary to the mandatory provisions contained in Representation of People Act read with Code of Civil Procedure. Therefore, for want of proper verification and also for having made a false statement, the above Election Petition is likely to be dismissed. Non-disclosure of court in which the P.R.C. is pending renders the allegation remained unexplained. Therefore, the verified statement is bound to be treated as a false statement. With reference to para (8) of the election petition, it was submitted that the allegations are against one Sri Byreddy Rajasekhar Reddy, who is M.L.A. from Nandikotkur Assembly Constituency. The allegation that he is a person of criminal record is false and it is further pleaded that it is irrelevant for the purposes of this election petition. The verification made in the Election Petition and also in Annexure-II is not in conformity with the provisions contained in Section 83 (1) (c) of the Representation of People Act, 1951 read with Rules 14 and 15 of Order VI C.P.C. Therefore, the Election Petition is liable to be dismissed.

The defects relating to the pleadings and verifications are mere denial, attacked separately hereinafter in general without any reference to any specific verification of any particular Annexure. While dealing with the verification of each Annexure, the defective verification is pointed out specifically.

As regards para (9) the allegations that are made in Annexure-III were denied. The allegation that the respondent has a known criminal record and the respondent is adept at terrorising people and officials in his constituency to achieve nefarious ends both politically and to make wrongful gain by indulging in anti-social activities such as bootlegging and smuggling in TML etc., were all denied. It was further stated that it is absolutely false that the Chief Minister of Andhra

Pradesh placed in Circular No. 3124/97 CPE/B5 dated 30th August, 1997 in which he is said to have been issued to the Commissioner of Prohibition and Excise. The said information furnished does not permit any one to hold this respondent or Rajasekhara Reddy as the bootleggers or smugglers in IML.

With reference to para. 10, the allegations are that on the eve of the mid-term Parliamentary Elections, Rajasekhara Reddy started making sweeping statements to the effect that he would secure majority in his Assembly segment in favour of the respondent than any other Assembly segment in Kurnool District and in support of this allegation a statement reported in the Press was relied upon a clipping of Ecnadu Daily District Edition date 18-1-1998 is filed. There is no allegation against the respondent and there cannot be any error on the part of Rajasekhara Reddy to claim to secure the highest majority in this segment for the respondent. In any event, whatever such statement is made by Sri Rajasekhara Reddy is not known to the petitioner. The only allegation that was made in Annexure-V was about this respondent planning to resort to large scale rigging, stamping and cycling at Nandyal Town and creating violence on the date of polling is denied by the respondent. It is further stated by the respondent that he had an opportunity to verify the signature of Gangula Pratap Reddy in Annexure-V. It is not the signature of the petitioner. It must have been signed by somebody else. Therefore, the verification made by him cannot be said to be correct. Therefore, the declaration made by verification that the contents herein are true and correct to his knowledge, cannot be said to be correct. For this reason, the petition is liable to be dismissed.

With reference to para. (11), the petitioner claims to have given a representation dt. 14-2-98 in Annexure-IX requesting to deploy adequate number of police force at the polling stations. Such representation only brought into existence subsequently for the purpose of Election Petition and there is no basis for it.

With reference to para. 12, it is stated by the respondent that the allegations are that adequate police force was not deployed and Rajasekhara Reddy held complete sway over major part of Nandikotkur Assembly segment forcing the voters to cast their votes by open ballot system and Rajasekhara Reddy and his followers went round various polling stations and dragged the polling agents etc., are denied and the petitioner was put to strict proof thereto. It is further pleaded by the respondent that the allegation and the petitioner and one Mr. Vijaya Kumar, Advocate of Nandikotkur have witnessed the atrocities by Rajasekhara Reddy and his henchmen near booth Nos. 66 to 89 is totally false and they were denied. It was further pleaded that in any event the respondent has

nothing to do with such alleged atrocities. The allegations back of material facts. At what time that the petitioner and Mr. Vijaya Kumar witnessed the said atrocities and at what polling station are not clearly mentioned. It is further pleaded by the respondent that it is necessary to notice that the procedure followed in the matter of filing election petition under section 80 prescribes that no election can be questioned except by way of presentation of election petition according to the provisions contained para (6) of the Representation of the People Act, 1951. Section 88 of the said Act gives the jurisdiction of the High Court. Section 81 prescribes limitation and requires attested copies to accompany the petition for service on the respondent. The Election Petition shall contain a concise statement of material facts on which the petitioner relies. Such material facts are not pleaded by the petitioner herein. It is further pleaded by the respondent that the election petition is time barred as the election petition was presented on 17-4-1998 after expiry of 45 days as prescribed in Section 81(1) of the said Act. It is necessary to notice that sections 4 to 24 of the Limitation Act have no application in case of election petitions under section 81(1) of the said Act which prescribes the limitation of 45 days. With these averments it was pleaded that the election petition is also required to be dismissed as time barred.

With reference to the defects in the verification, the respondent submits that the provisions contained in section 83(1) (c) of the said Act requires that the election petition shall be signed by the petitioner and verified in the manner laid down in the C.P.C. The rules 14 and 15 of the Order VI C.P.C. prescribe signing of pleadings and its verification. It is under Rule 15, verifying person shall specify by reference to number paras of the pleadings. What he verifies on his own knowledge and what he verifies upon information received are believed to be true. The verification shall be signed by the person and shall state the day on which and at which place he signed. Rule 15(2) requires that the person verifying shall verify separately the pleading, the facts of which are known to him to be true and the facts which are informed to him are believed to be true. The facts cannot be true to both the knowledge and belief. Therefore, it was pleaded by the respondent in his written statement that the election petition is not in accordance with the verification contemplated under Rule 15 of Order VI and section 83 (1) (c) of the Representation of the Peoples Act, 1951. Therefore, the defective verification is fatal to the petitioner and therefore it is liable to be dismissed. It is further pleaded that in the absence of proper affidavit in support of the allegation of corrupt practices, the election petition is not maintainable. The facts

relating to corrupt practice not supported by affidavit cannot be considered by the Court. It is also obligatory on the part of the deponent in the affidavit to disclose the source of information in case of facts stated to have been believed to be true on receipt of information.

It is further pleaded by the respondent that Section 83(1)(b) of the Representation of People Act, 1951 requires that the petitioner shall set forth full particulars of any corrupt practices and the date and place and commission of each such corrupt practice. The material facts required under section 83(1) of the said Act are to be considered as material supporting the allegations made, which is lacking in the present petition. Therefore, it is also liable to be dismissed.

With reference to para 12, it is alleged that Sri Rajasekhara Reddy and his followers went round various polling stations and dragged the polling agents of the petitioner out of the polling booths and indulged in rigging, stamping and cycling. All these allegations may constitute a case booth capturing. Therefore, it is necessary to notice, who is alleged to have committed this corrupt practices. It is Rajasekhara Reddy and his followers having gone round various polling stations. Mr. Rajasekhar Reddy is not a returned candidate. There is no allegation that the respondent has committed any such alleged activities of corrupt practices. Mr. Rajasekhar Reddy is not the agent of the petitioner and it was not done by him with his consent. Therefore, the entire allegations in the election petition that Rajasekhar Reddy and his followers committed the corrupt practices is of no use to the petitioner. If a corrupt practice is committed by any other person than a returned candidate or his election agent of any person with the consent of Returned candidate or its agent cannot be a ground to set aside the election of the Returned candidate. Even assuming that the allegations made in para 12 of the election petition are true, even then it is not possible for this court to come to the conclusion that the corrupt practice was committed by the respondent or its election agent. With these averments, it was prayed by the respondent that the election petition be dismissed with costs.

The other details given in the remaining paragraphs of the written statement did not be reproduced for the reason that the other paragraphs relating to simple denial of the allegations made by the election petitioner in his petition. With these averments, it was prayed by the respondent that the election petition be dismissed.

As stated earlier, three application numbers 1520/98, 1521/98 and 1522/98 were filed by the respondent. Application No. 1520/98 was filed by 1609 GI/99-3

the respondent under Rule 16 of Order VI C.P.C. read with Sections 83 and 87 of Representation of People Act to strike off the pleadings contained in paragraphs 10 to 22 of the above election petition with a special reference to the allegations contained in paras 12 to 16 of the Election Petition in exercises of the powers conferred upon the Court under Rule 16 of Order VI C.P.C. r/w sections 83 and 87 of the Representation of People Act, taking up the matter as a preliminary issue.

Application No. 1521 of 1998 was filed under Rule 11 of Order VII C.P.C. read with Sections 83 and 87 of the Representation of Peoples Act to dismiss the Election Petition for want of disclosure of causes of action leading to any triable issue after striking down the pleadings as prayed for in E.A. No. 1520/98.

Election Application No. 1522 of 1998 was filed under sections 81 and 86 of the Representation of Peoples Act to dismiss the above election petition as time barred in view of the submission made in para 17 of the written statement and the submission contained in the affidavit filed in support of the above Election Application. In the light of the provisions contained in section 81(1) of the Representation of Peoples Act.

The learned counsel Mr. M. R. K. Chowdary appearing on behalf of the respondent-Returned Candidate submitted at the Bar that the election petition is liable to be dismissed in limini on the ground that the election petition is filed on expiry of the period of limitation.

The learned counsel Mr. Chowdary submitted that the respondent was declared as elected on 3-3-1998. Section 81(1) of the Representation of Peoples Act prescribes the limitation of 45 days within which the election petition is required to be filed. 45 days expired on 16-4-1998 which was not a public holiday and election petition was presented on 17-4-1998 i.e., 46th day from the declaration of result of the election.

In support of his contention, the learned counsel relied upon a ruling reported in COMMISSIONER OF INCOME TAX v. EKBAL & CO. (1). The case law relates to the Income Tax Act. Their Lordships held that :

"The expressions "within 30 days" and "not less than 30 days" are two quite different things. "Within 30 days" is within two points of time, one at which the period begins and the other at which it expires. On the other hand, "not less than 30 days" is outside these two points of time. There must be an interval of not less than

30 days and that means 30 days clear. The period must continue beyond the expiration of the stated time. Whereas "within" the stated period must mean what it says, something less than the moment of expiration. The expression "not less than 30 days" in S. 22(2) therefore means that 30 clear days must elapse from the date of the receipt of the notice before the obligation of the assessee to send the return becomes effective. Hence a notice requiring the assessee to send the return "within 30 days" of the receipt of the notice is invalid because the assessee will not get 30 clear days before his obligation to send the return arises because when a party is called upon to do an act "within" a stated number of days he necessarily cannot get that number of days as "clear" days."

The learned counsel further relied upon a ruling reported in *MISS AVI J. CAMA v. BANWARI LAL AGARWAL & OTHERS* (2). In para 16 their Lordships held as under :

"According to the learned counsel for the petitioner, the expression "at any time within 15 days from the date on which the election of a councillor is notified under section 16" fixes both the inward and outward limits of the period during which the election petition can be made. This contention is not acceptable to us. "Within" in relation to time means "in the limits of" (a period of time), "before the end of" and "after not more than". The question for decision therefore is which of these meaning of "within" the Legislature had in view while enacting sub-section (1) of Sec. 428 of the Act. By virtue of the proviso to section 16 of the Act as elected candidate is deemed to have entered on his office from the date of his election for the purpose of selection of Councillors under section 9 of the Act. The cause of action for challenging the election therefore arises on the date of election. It could not be the intention of the Legislature to leave the voter without the remedy of election petition till the State Government chose to publish the result of election in the official gazette. We are, therefore, of the opinion that the date of notification is used in the expression "from the date on which the election of a Councillor is notified under section 16" only for the purpose of fixing the posterior limit and not for the purpose of indicating an anterior limit. The words "at any time" make it

clear that a voter is entitled to make an application at any time after the cause of action accrues."

My attention was also drawn by the learned counsel to the ruling reported in *NALLAPAREDDI CHANDRASEKHARA REDDY v. THE GOVERNMENT OF ANDHRA PRADESH AND ANOTHER* (3). In para 8 their Lordships were pleased to hold as under :

"In our view, the answer to this question is manifest from the language of sub-section (1) itself. What is laid down is that the ground shall be communicated ordinarily not later than 5 days from the date of detention. The words from the date of detention are very important. The intention of the legislature that the date of detention should also be taken into account is indicated by the use of these words. The words 'ordinarily not later than five days' are also significant and meaningful, since they demonstrate the anxiety of the Parliamentary insist on an early supply of the grounds of detention to the detenu. The emphasis is that the communication of the grounds should not be later than 5 days. Thus, the language of sub-section (1) of section 8 is itself explicit and makes it clear that the date of detention also should be taken into account while reckoning the period of 5 days. It must also be noted that service of the grounds even on the date of detention is permissible and is even desirable and that is shown by the words 'as soon as may be' which are extracted from Article 22."

Further reliance was placed on a ruling reported in *C. Krishna Reddy and another vs. Commissioner of Police, Hyderabad and others* (4). In para No. 6 their Lordships were pleased to hold that the date of detention was directed to be counted for the purpose of computation basing upon the views expressed by two Division Benches of this Court. The learned counsel for the respondent further submitted that the date of declaration of election i.e., 3-3-1998 must be included for the purposes of computation of 45 days from the date of declaration. The learned counsel relied upon few more rulings on this point but it is not necessary to give all the case law cited by the learned counsel but suffice it to say that the main contention of the learned counsel for the respondent that by the date of declaration of election must be counted as a first day for computation of period of limitation. The learned counsel submitted that on the date of declaration

(2) A.I.R. 1953 Nagpur 81.

(3) 1974 CrL L.J. 158.

(4) 1982 CrL L.J. 592.

of election, the election petition is filed in the High Court. The High Court has to accept the filing. The High Court cannot reject the filing on the ground that the date of declaration of election is not to be counted. The learned counsel further submitted that such eventuality the date of declaration itself has to be counted as a 1st day of limitation.

While rebutting the aforesaid arguments, the learned counsel Mr. C. V. Nagarjuna Reddy appearing on behalf of the election petitioner submitted at the Bar that the date of declaration of election has to be excluded. In the present case, the result was declared on 3-3-1998 and the election petition was filed on 17-4-1998 and therefore the election petition is filed very much within the period of limitation. The learned counsel relied upon a ruling reported in *T. C. BASAPPA v. T. NAGAPPA AND ANOTHER* (5). In para (16) at page 445 it was held by their Lordships as under :

"Under Rule 119 of the Election Rules framed under the Act, an election petition against a returned candidate is to be presented at any time after the publication of the name of such candidate under section 67 of the Act, but not later than 14 days from the date of publication of the notice in the official gazette under rule 113, that the return of election expenses of such candidate and the declaration made in respect thereof have been lodged with the Returning Officer. It is not disputed that this notice of the return of election expenses was published in the Mysore Gazette on the 31st March, 1952 and the petition therefore was just in time as it was presented within and not later than 14 days from that date. The High Court seeks to think that in computing the period of 14 days the date of publications is to be included. This seems to us to be an unwarrantable view to take which is opposed to the ordinary canons of construction."

In the above case publication of return of expenses within 14 days of which an election petition has to be filed was made on 31-3-1952. Election petition was received on 14-4-1952. The S.C. laid down the above dicta of excluding the date of publication construing Rule 119 of Election Rules which reads: "Election petition should be presented at any time not later than 14 days from the date of publication of notice in official gazette."

The learned counsel for the election petitioner also relied upon a ruling reported in *BHOGILAL PANDYA v. MAHARAWAL LAXMAN SINGH AND OTHERS* (6). Their Lordships were pleased

(5) AIR 1954 SC 440.

(6) AIR 1968 Raj. 145.

to hold that even if the petitioner is entitled to present an election petition on the date of the return that should not affect the computation of the period of limitation in accordance with the statutory provision of law. The learned counsel for the election petitioner also relied upon a ruling reported in *HARU DAS GUPTA v. STATE OF WEST BENGAL* (7). This case arose under the West Bengal Prevention of Violent Activities Act. The Act requires the Advisory Board to confirm the detention of a detainee within three months from the date of detention. The detention order was made on 5-2-1971 and the confirmation was made on 5-5-1971 and therefore their Lordships were held that where a particular time is given from a certain date within which an act is to be done, the day on that date is to be excluded. Thus, in computing the period of limitation three months from the date of detention before the expiration of which the order or decision for confirming the detention order or continuation of the detention had to be made the date of commencement of detention must be excluded.

Looking at this problem in hand, this court has no hesitation in holding that there has been different views in the matter. But conventionally that the day on which the election is declared has to be excluded. That is so done in all other suits and proceedings. Therefore, this court finds no reason to make exception to the election petition: hence it is held that the election petition is filed within limitation.

As stated earlier, E.A. No. 1520/98 was filed by the respondent to strike off the proceedings. With reference to the above point the learned counsel Mr. M. R. K. Chowdary submitted that the allegation pertaining to the corrupt practices contained in para 12 of the election petition do not fall within the scope of Section 100(1)(b) of the Representation of Peoples Act since there is no specific allegation that the commission of corrupt practices by Rajasekhara Reddy, M.L.A., of Nandikotkur Assembly Constituency is with the consent of the respondent i.e., the Returned candidate. According to the learned counsel for the respondent that in the absence of such allegation in the pleadings pertaining to corrupt practices is liable to be struck off and therefore para (12) which is referred in the verification affidavit of the petitioner as containing the allegation of corrupt practices is liable to be struck off.

The learned Counsel Mr. M. R. K. Chowdary invited my attention to Section 100(1)(b) of the

(7) AIR 1972 S.C. 1293.

Representation of Peoples Act which reads as under :

"100. Grounds for declaring election to be void :

- (1) Subject to the provisions of sub-section (2) if (the High Court) is of opinion—
- (b) that any corrupt practice has been committed by a returned candidate or his election agent by any other person with the consent of a returned candidate or his election agent".

By reading the above section, it is evident that corrupt practices must have been committed either by the returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. By reading para (12) of the election petition, it is evident that many allegations of corrupt practices have been made by the election petitioner against Mr. By. Rajasekhar Reddy, the M.L.A. of Nandikotkur Assembly Constituency. But there is no whisper in para (12) of the affidavit that Mr. Rajasekhar Reddy was an agent of the returned candidate or such corrupt practices have been done by Mr. Rajasekhar Reddy with the consent of the returned candidate or his election agent. Even for the sake of arguments, it is presumed that the corrupt practice was done by Mr. Rajasekhar Reddy. In that event the returned candidate i.e., the respondent herein cannot be made liable and his election cannot be set aside.

The learned Counsel Mr. Nagarjuna Reddy submitted at the Bar that in para 12 the specific word "consent" is not used but the word used by the election petitioner "as the instance" is synonymous or more emphatic than the consent. Therefore, the election has to be set aside. This Court is not in agreement with the submission made by the learned counsel for the petitioner. The word "consent" used in the Representation of Peoples Act has a special meaning. Consent is a positive act whereas at the instance may not be a positive act. For the purposes of doing corrupt practices, the returned candidate or his election agent must positively given the consent to third parties so as to win the election. Therefore, this court is of the considered view that the word 'consent' used in Section 100(1)(b) of the said Act is not synonymous to the words 'at the instance'. When this Court has come to the conclusion that By. Rajasekhar Reddy and his henchmen got themselves involved in corrupt practices, the returned candidate i.e., the respondent herein cannot be made liable and his election cannot be set aside. By reading the averments contained in paras 12, 13 and 14 would clearly indicate that the corrupt practice indulged by By. Rajasekhar Reddy where it is alleged to be at the instance or at the behest of the respondent. Therefore, the allegations contained in the election petition if accepted do not

constitute the corrupt practice as defined under section 100(1)(b) of the Representation of Peoples Act.

The corrupt practice has to be strictly proved and for the purposes of proving a pleading to that effect is a common precedent. Their Lordships of Supreme Court in *RAJ NARAIN v. SMT. INDIRA NEHRU GANDHI* (8) held as follows :

- "16. Reference to Yashpal Kapur as an election agent on a date prior to the date when he was appointed as such—his nomination as an election agent could not have been done before February 11, 1971—is clearly a misnomer but that is irrelevant. The mention in paragraph 5 of the election petition that Yashpal Kapur organised the electioneering work in the constituency at the direction of the respondent even before her nomination and again the reference to her candidature in January in paragraph 6 shows that according to the petitioner the respondent was a 'candidate' even before her nomination and further that she obtained the assistance of Yashpal Kapur when he was still a Gazetted Officer. There is no gainsaying the fact that the election petition was not artistically drawn up. That unfortunately is the case with most of our pleadings. But if the petition is read reasonably, as it should be, it is clear that the allegation of the petitioner is that the services of Yashpal Kapur were obtained by the respondent when she had already become a candidate and when she so obtained his assistance. Yashpal Kapur was still a Gazetted Officer. It is true that one of the ingredients of the corrupt practice alleged, i.e., that when the respondent obtained the assistance of Kapur, she was a candidate is not specifically set out in the petition but from the allegations made, it flows as a necessary implication. While a corrupt practice has got to be strictly proved but from that it does not follow that a pleading in an election proceeding should receive a strict construction."

The Hon'ble Supreme Court has also made a similar observation while striking the pleadings in an election petition in a ruling reported in *UDHAV SINGH v. MADHAV RAO SCINDIA* (9). Their Lordships were pleased to hold as under :

"In para 11(iv) the particular corrupt practice alleged is of the kind indicated in

(8) 1972 (3) SCC 850.

(9) (1977) 1 SCC 511.

the aforesaid sub-clause (i) of the proviso. Reading para 11 as a whole. It is clear that it is pleaded that Shri Shiv Pratap Singh and others of Umri had administered a threat to Shri Mohan Prasad Ojha who was a Congress Worker and an elector of Umri; that the threat was of causing bodily injury to the said elector, that the threatener Shri Shiv Pratap Singh, was an election worker of the respondent and had administered the threat to the said elector, with the consent of the respondent. Reading para ii(iv) together with the contents of para 10 of the petition, the import is clear that this threatener was none else but "Shri Shiv Pratap Singh, MLA, S/o Shri Brijendra Singh, r/o Umri House, Guno". Who "during the election of the respondent acted as his agent".

"It will thus be seen that all the "material facts" constituting a complete charge of corrupt practice under section 123(2) against Shri Shiv Pratap Singh were stated in the petition. The approximate date of administering the threat—Which was only a material particular as distinguished from a material fact—was also given. Only the place and the precise time of giving the threat were not stated. But these were, at best, only material particulars, and not "material facts". The occasion for furnishing such particulars would have arisen only if the respondent had asked for them. Similarly, further and better particulars of the address etc. of Shri Shiv Pratap Singh would fall within the category of particulars. By an application dated August 1, 1972, the respondent, obviously as a matter of abundant caution, asked for fuller particulars of Shiv Pratap Singh referred to in para 11(iv). The petitioner submitted his reply dated August 8, 1972, through his counsel in which he furnished these particulars of the said Shiv Pratap Singh".

The learned counsel Mr. C. V. Nagarjuna Reddy appearing on behalf of the election petitioner submitted at the Bar that by reading of the aforesaid rules and applying to the present state of facts that the petitioner has sufficiently pleaded the corrupt practices done by the returned candidate. While rebutting the aforesaid arguments, Mr. M. R. K. Chowdary submitted at the Bar that there is no proper pleadings at all, as it does not disclose the material facts and full particulars regarding the charges of corrupt practices. The allegations made

in para (12) lack of material facts and full particulars as contemplated under the provisions of the said Act. It was further contended that whatever allegations of corrupt practices are made by the petitioner herein, they reflect in para (12) the contents contained in either Annexure or other paragraphs of the election petition do not constitute a disclosure of any cause of action leading to tribal issue and therefore they are to be struck off. The election petitioner failed to disclose the material facts and full particulars relating to the charges of corrupt practices and therefore they are liable to be struck off under Order VI Rule 16 C.P.C. and the election petition as a whole is liable to be dismissed under Order VII Rule 18 (a) C.P.C. The learned counsel Mr. M. R. K. Chowdary submitted that by reading para (12) all the allegations are made against By. Rajasekhar Reddy and his henchmen regarding the corrupt practices but nothing pertains to the elected candidate i.e., the respondent herein or with his consent. Therefore, if para (12) is struck off, there means no tribal issue. In support of his contention, the learned Counsel relied upon a ruling reported in *BOOTA SINGH v. SHER SINGH AND OTHERS* (10). In the above case there was a subject matter of election petition regarding improper voting and booth capturing and corrupt practice as defined under section 123 of the said Act. But there were no specific allegations against any particular polling staff as to the collusion in the alleged improper voting was made. Their Lordships held that the election petition is not maintainable.

The learned counsel Mr. M.R.K. Chowdary further submitted at the Bar that the allegations in para (12) lack material particulars as contemplated under the provisions of the said Act. The material particulars as given by the election petitioner reflected in para (12) read with the contents containing either in Annexure or other paras of the election petition do not constitute any disclosure of any cause of action leading to tribunal issue. The learned counsel further submitted that unless the material facts are pleaded and proved, the election petition is not maintainable. The learned counsel relied upon a ruling reported in *Lalit Kishore Chaturvedi v. Jagdish Prasad Thada and others* (11). Their Lordships were pleased to give the instances with reference to the case (election petition) which their Lordships were deciding and it was held that the averments made in the election petition do not disclose the material particulars and therefore their Lordships were pleased to dismiss the election petition.

The learned counsel Mr. M. R. K. Chowdary was further submitted with reference to section 83

(10) AIR 1994 PAF 32.

(11) AIR 1990 S.C. 1731.

of the Representation of Peoples Act that section 83 gives what should be the contents of the election petition. It also provides that the election petition shall be accompanied by an affidavit in support of the allegation of such corrupt practice and particulars thereof. Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition. With reference to the above provision, the learned Counsel pointed out the affidavit filed in the present election petition, which reads as under :

"AFFIDAVIT"

"I. G. Prathap Reddy, S/o late G. Timma Reddy, aged: 47 years, Occu : Cultivation R/o Yerragudi Dinne, Rudravaram Mandal, Kurnool Dist. the petitioner in the accompanying election petition calling in question the election of Shri B.V. Nagi Reddy the respondent in the said petition make solemn affirmation/oath and say—

(a) that the statements made in paragraphs twelve of the accompanying election petition about the commission of the corrupt practice of booth capturing, rigging and cycling and the particulars of such corrupt practice mentioned in the paragraph in the same petition are true to my knowledge;

(b) that the statements made in paragraph sixteen of the said petition about the improper reception of votes contained in Twenty three ballot boxes set apart and these particulars contained in paragraph sixteen of the said petition are true to my knowledge and also from the information received from my counting agents at Assistant Returning Officer's Table Sri D. M. Ramachandra Reddy and A. Sreenivasa Reddy in the counting halls of Nandikorkur Assembly segment.

(c) that the contents in paras 1 to 11 and 13 to 15, and 17 to 27 are believed to be true and correct to the best of my knowledge, belief and on the advice of my counsel.

Sd/-

G. Prathap Reddy
Signature of the Deponent"

With reference to the aforesaid affidavit, it was submitted by the learned counsel for the respondent that para (12) in the written statement is only to the knowledge of the affiant and para (16) is believed to be true by the affiant on the strength of the information received by his counsel. The affiant further states that paras 1 to 11, 13 to 15 and

17 to 27 are believed to be true and correct by him on the strength of the advice given by his counsel.

It means that according to the averments made by the petitioner herein that paras 12 and 16 only are within his knowledge. By paras 12 and 16 it is evident that those paras do not relate to corrupt practice done by the respondent himself or by his agent or the person authorised by him. Moreover, paras 12 and 16 do not disclose any material facts.

The learned counsel Mr. C.V. Nagarjuna Reddy appearing on behalf of the election petitioner submitted that he tried to distinguish between the "material facts and material particulars" with reference to the ruling reported in Balwan Singh v. Lakshmi Narain & others (12). The learned counsel also relied upon another ruling reported in Raj Narain v. Smt. Indira Nehru Gandhi (supra No. 8) Emphasis was given especially at paras 17, 18 and 19 of the said judgment. Reading those judgments, this court has no hesitation in accepting the proposition laid down by their Lordships. But this Court is of the considered view that para 12 and 16 are vague and do not disclose any material facts amounting to corrupt practice. Therefore, this Court is inclined to strike off para 12 and 16 from the pleadings under Order VI Rule 16 C.P.C. If these paras are struck off from the pleadings, then nothing remains in the election petition which can be called as a triable issue.

Therefore, this Court allows E.A. Nos. 1520, 1521 and 1522 of 1993 in E.P. No. 3 of 1998 and paras 12 and 16 are struck off. In effect, Election Petition No. 3 of 1998 stands dismissed. Parties are directed to bear their own costs.

Sd/-

M. V. SUBBARAO, Jt. Registrar
[No. 82/AP-HP/3/98/99]

By Order,

BABU RAM, Secy.

नई दिल्ली, 25 मई, 1999

आ.अ. 126. —लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग सिक्किम सरकार के परामर्श से एतद्वारा श्री एन.डी. जीगाया के स्थान पर श्री. टी.टी. दूरजी आई.ए. एस. (एस.कै.-75 $\frac{1}{2}$) सचिव, शिक्षा विभाग, सिक्किम, गंगटोक को उनके कार्यभार ग्रहण करने की तारीख से आगामी आदेशों तक के लिए लिए, सिक्किम के मुख्य निर्वाचन अधिकारी के रूप में नामित करता है।

2. श्री टी. टी. दूरजी, शिक्षण सरकार के अधीन सभी पदभार या किसी कार्य के पदभारों को तत्काल सौंप देंगे या धारण करना समाप्त कर देंगे, जो कि वे ऐसा पदभार ग्रहण करने से पहले धारण कर रहे थे।

3. श्री टी. टी. दूरजी, मुख्य निर्वाचन अधिकारी, सिक्किम के रूप में कार्य करते हुए सिक्किम सरकार के अधीन किसी भी प्रकार का कोई अतिरिक्त कार्यभार ग्रहण नहीं करेंगे निवाय इसके कि उनको राज्य सचिवालय में निर्वाचन विभाग के प्रभारी, सरकार का सचिव पदाभिहित किया जायेगा।

[सं. 154/एस.के.एस./99-प्रशा.]

आदेश से,

शैलेन्द्र मेहदीरत्ता, प्रधान सचिव

New Delhi, the 25th May, 1999

O.N. 126.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950) the Election Commission of India in consultation with Government of Sikkim hereby nominates Shri T. T. Dorjee, IAS (SK-75 1/2), Secretary Education Department, Sikkim, Gangtok as the Chief Electoral Officer for the State of Sikkim with effect from the date he takes over charge and until further orders vice Shri N. D. Chingapa.

2. Shri T. T. Dorjee shall cease to hold and hand over forthwith the charge of all or any charges of work under the Government of Sikkim which he may be holding before such assumption of office.

3. Shri T. T. Dorjee while functioning as the Chief Electoral Officer, Sikkim shall not hold any additional charge whatsoever under the Government of Sikkim except that he should be designated Secretary to the Government in charge of Election Department in the State Secretariat.

[No. 154/SKM/99/P. Admn.]

By Order,

S MENDIRATTA, Principal Secy.

नई दिल्ली, 26 मई, 1999

आ. अ. 127 :—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग त्रिपुरा सरकार के परामर्श से एतद्द्वारा श्री बी. के. चक्रवर्ती के स्थान पर संजीव रंजन आई. ए. एस. ((एम. टी.-1985) को उनके कार्यभार ग्रहण करने की तारीख से आगामी आदेशों तक के लिए, त्रिपुरा के मुख्य निर्वाचन अधिकारियों के रूप में नामित करता है।

2. श्री संजीव रंजन त्रिपुरा सरकार के अधीन सभी पदभार या किसी कार्य के पदभारों को तत्काल सौंप देंगे या धारण करना समाप्त कर देंगे, जो कि वे ऐसा पदभार ग्रहण करने से पहले धारण कर रहे थे।

3. श्री संजीव रंजन, मुख्य निर्वाचन अधिकारी, त्रिपुरा के रूप में कार्य करते हुए त्रिपुरा सरकार के अधीन किसी भी प्रकार का कोई अतिरिक्त कार्यभार ग्रहण नहीं करेंगे निवाय इसके कि उनको राज्य सचिवालय में निर्वाचन विभाग के प्रभारी, सरकार का सचिव पदाभिहित किया जायेगा।

[सं. 154/टी. पी./99-प्रशा.]

आदेश से,

शैलेन्द्र मेहदीरत्ता, प्रधान सचिव

New Delhi, the 26th May, 1999

O.N. 127.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India in consultation with Government of Tripura hereby nominates Shri Sanjeev Ranjan, IAS (MT-1985), as the Chief Electoral Officer for the State of Tripura with effect from the date he takes over charge and until further orders vice Shri B. K. Chakraborty.

2. Shri T. T. Dorjee shall cease to hold and hand over forthwith the charge of all of any charges of work under the Government of Tripura which he may be holding before such assumption of office.

3. Shri Sanjeev Ranjan while functioning as the Chief Electoral Officer, Tripura, shall not hold any additional charge whatsoever under the Government of Tripura except that he should be designated Secretary to the Government in charge of Election Department in the State Secretariat.

[No. 154/TP/99-Admin.]

By Order,

S MENDIRATTA, Principal Secy.

नई दिल्ली, 26 मई, 1999

आ. अ. 128 :—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, अंडमान एवं निकोबार द्वीप समूह संघ राज्य क्षेत्र के प्रशासन परामर्श से श्री बी. के. सिंह आई. ए. एस. (ए. जी. एम. यू.-1981) को उनके कार्यभार ग्रहण करने की तारीख से आगामी आदेशों तक के लिए, अंडमान एवं निकोबार द्वीपसमूह संघ राज्य क्षेत्र के मुख्य निर्वाचन अधिकारियों के रूप में नामित करता है।

2. श्री बी. के. सिंह अंडमान एवं निकोबार द्वीप समूह संघ राज्य क्षेत्र के अधीन सभी पदभार या किसी पदभारों को तत्काल सौंप देंगे या धारण करना समाप्त कर देंगे, जो कि वे ऐसा पदभार ग्रहण करने से पहले धारण कर रहे थे।

3. श्री बी. के. सिंह, मुख्य निर्वाचन अधिकारी, अंडमान एवं निकोबार द्वीपसमूह में कार्य करते हुए अंडमान एवं निकोबार द्वीपसमूह प्रशासन के अधीन किसी भी प्रकार का कोई अतिरिक्त कार्यभार ग्रहण नहीं करेंगे,

सिवांग इससे कि उनकी सेवा सुप्रभाषण में निवृत्ति
विभाग के प्रभारी, सरकार का सचिव पदनिहित किया
जायेगा ।

[सं. 154/ए.एन.आई./99-प्रशा.]

आदेश से,

शैलेन्द्र मेहन्दिर्त्ता, प्रधान सचिव

New Delhi, the 26th May, 1999

O.N. 128.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India in consultation with the Administration of the Union Territory of Andaman & Nicobar Islands hereby nominates Shri V. K. Singh, IAS (AGMU-1981), as the Chief Electoral

Officer for the union territory of Andaman & Nicobar Islands with effect from the date he takes over charge and until further orders.

2. Shri V. K. Singh shall cease to hold and hand over forthwith the charge of all or any charges of work under the Administration of Andaman & Nicobar Islands which he may be holding before such assumption of office.

3. Shri V. K. Singh while functioning as the Chief Electoral Officer, Andaman & Nicobar Islands shall not hold any additional charge whatsoever under the Government of Andaman & Nicobar Islands except that he should be designated Secretary to the Government in charge of Election Department in the State Secretariat.

[No. 154/ANI/99-Admin.]

By Order,

S. MEHNDIRATTA, Principal Secy.